

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 15, 2009
POSITION: Neutral
SPONSOR: Senate Committee on Veterans Affairs

BILL NUMBER: SB 809
AUTHOR: Senate Veterans Affairs
RELATED BILLS: AB 1265

BILL SUMMARY: Sales and Use Taxes: Consumers: Veterans

This bill would, until January 1, 2012, specify that certain United States veterans would be considered consumers, rather than retailers, of tangible personal property they sell, except for alcoholic beverages or tangible personal property sold for more than \$100.

FISCAL SUMMARY

According to the Board of Equalization (BOE), the annual revenue loss from this measure is estimated at approximately \$25,000, including \$16,644 General Fund at the new 6-percent rate.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 23, 2009 version include adding a sunset date of January 1, 2012, and adding a provision that items sold by a qualifying itinerant vendor must not be over \$100 for the vendor to be classified as a "consumer." These amendments do not change Finance's position; however, Finance notes that it is a bit unclear from the language in the bill if the \$100 threshold is meant to apply to each item sold or to each sale, which might include multiple items.

COMMENTS

The Department of Finance is neutral on this bill as the revenue loss is very minor and it provides modest tax relief to disabled veterans when they are trying to support themselves by selling tangible personal property.

Analyst/Principal (0721) C. White	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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ANALYSIS**A. Programmatic Analysis**

Under existing law, a sales tax is imposed on retailers for the privilege of selling tangible personal property in California. A use tax is imposed on the storage, use, or other consumption of tangible personal property in California. Either the sales or use tax applies to all sales or purchases of tangible personal property, unless the property is specifically exempted.

Under existing law, every retailer or any person engaged in the business of selling tangible personal property in California must obtain a seller's permit from the Board of Equalization (BOE) and report the tax on a form to the BOE. However, current law defines a variety of retailers of tangible personal property as "consumers" rather than "retailers". As a "consumer", a qualifying retailer is not required to obtain a seller's permit or report tax on their sales. However, they are still required to pay sales tax on the costs of the taxable components in the goods that they sell.

This bill would, until January 1, 2012, specify that certain United States veterans would be considered consumers, rather than retailers, of tangible personal property they sell, except for alcoholic beverages or tangible personal property sold for more than \$100. As a result, their sales would not be subject to the sales and use tax. In order to qualify for the exemption, a person must meet all of the following conditions:

- The person was a member of the United States Armed Forces and received an honorable discharge.
- The person is unable to obtain a livelihood by manual labor due to a service-connected disability.
- The person is a sole proprietor with no employees for the purpose of selling the tangible personal property.
- The person has no permanent place of business in California.

Discussion

The BOE has issued a support letter for this measure in which they state the following: "This bill represents one small step towards recognizing our disabled veterans who have already made, or are making the transition from military to civilian employment. Enactment of this bill would assist in this transition by simplifying reporting requirements under the Sales and Use Tax Law for those qualifying disabled veterans that are honorably discharged or released from service that desire to engage in the business of selling goods they own. For qualifying disabled veterans without employees or a permanent place of business, this bill would eliminate the need for them to hold a seller's permit, file sales tax returns, and remit sales tax on those sales."

This bill is sponsored by the Senate Committee on Veterans Affairs and its purpose is to restore in the sales and use tax law an exemption for disabled veterans that first appeared in 1892 and currently resides in the Business and Professions Code Section 16102 and states the following: "Every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the board of supervisors shall issue to such soldier, sailor or marine, without cost, a license therefor."

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However, based on a 1999 BOE decision that was unsuccessfully challenged as well as two opinions from the Office of Legislative Counsel specific to this issue rendered in 1998 and 2006, it has been determined that this exemption only applies to county license tax and license fees, and does not apply to sales and use taxes; hence, the need for this bill.

B. Fiscal Analysis

According to the Board of Equalization (BOE), the annual revenue loss from this measure is estimated at approximately \$25,000, including \$16,644 General Fund at the new 6-percent rate. The BOE also states that the administrative costs associated with this measure would be absorbable.

For 2009-10 revenue estimates a January 1, 2010 operative date was assumed.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Code
1149/Sale Use Tax	RV	No	U	-\$8	U	-\$17	U	-\$17	0001
1148/Realign-Sale	RV	No	U	-\$1	U	-\$1	U	-\$1	0331
1149/Sale Use Tax	RV	No	U	\$0	U	-\$1	U	-\$1	3059
L149/Loc Rev Sale	RV	No	U	-\$3	U	-\$6	U	-\$6	0994
0860/Equalization	SO	No		-----	No/Minor Fiscal Impact	-----			0001
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0331	Sales Tax Account, Local Revenue Fund								
0994	Other Unclassified Funds								
3059	Fiscal Recovery Fund								